

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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Richard Richardson,

Plaintiff,

-against-

New York City; New York City LIRR Police Command
District #4; All John Doe Officers; John Doe Tour
Command; Officer Fuenes, Tax ID 086729; and Officer
Smith

Defendant.
----- X

ANSWER

07 CV 7198 (LAK) (MHD)

Demand Jury Trial

THE CITY OF NEW YORK, by its attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, for its answer to the complaint, respectfully alleges, upon information and belief, as follows:¹

1. Deny the allegations set forth in paragraph “1” of the complaint, except admit that plaintiff purports to proceed as stated therein and deny knowledge or information sufficient to form a belief as to the truth of the allegations concerning the unidentified officers.²

2. Deny the allegations set forth in paragraph “2” of the complaint, except admit that plaintiff purports to name Officer Smith and Officer Fuenes as individual defendants as stated therein and deny knowledge or information sufficient to form a belief as to the truth of

¹ Although a check of the docket sheet indicates that “Lt. Rios” accepted service on behalf of “Officer Smith” and “Officer Fuenes,” they have not requested representation from this office and despite this office’s diligent efforts, we have not been able to confirm that either officer is employed by the New York City Police Department.

² In order to facilitate its answer, defendant City numbered the paragraphs of the complaint. Annexed hereto for the Court’s convenience is a copy of the complaint with the numbered paragraphs that correspond to defendant City’s answer.

the allegations concerning summons #4217356225 and court dates on June 26, 2007 and August 28, 2007.

3. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "3" of the complaint.

4. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "4" of the complaint.

5. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "5" of the complaint.

6. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "6" of the complaint.

7. Deny the allegations set forth in paragraph "7" of the complaint.

8. Deny the allegations set forth in paragraph "8" of the complaint.

9. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "9" of the complaint.

10. Deny the allegations set forth in paragraph "10" of the complaint except admit that plaintiff purports to proceed and seek relief as stated therein.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

11. The complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

12. Defendant City has not violated any rights, privileges or immunities secured to plaintiff by the Constitution or laws of the United States or the State of New York or any political subdivision thereof, nor has defendant violated any act of Congress providing for the protection of civil rights.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

13. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct and/or the intervening conduct of third parties, and was not the proximate result of any act of defendant City.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

14. Plaintiff's claims may be barred, in whole or in part, because plaintiff failed to comply with conditions precedent to suit.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

15. Plaintiff's claims may be barred, in whole or in part, by the doctrines of res judicata and/or collateral estoppel and/or Heck v. Humphrey.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

16. The actions of any police officers involved were justified by probable cause and/or reasonable suspicion.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

17. Plaintiff provoked any incident.

AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE

18. At all times relevant to the acts alleged in the complaint, the duties and functions of the defendant City's officials entailed the reasonable excuse of proper and lawful discretion. Therefore, defendant City is entitled to governmental immunity from liability.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

19. Punitive damages cannot be asserted against the City of New York.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

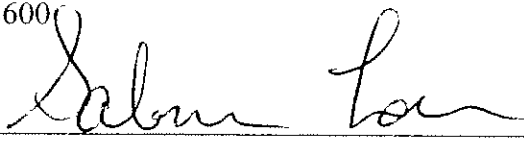
20. To the extent that the complaint alleges any claims arising under the laws of the State of New York, plaintiff failed to comply with New York General Municipal Law §50-e or §50-i and accordingly, such claims are barred.

WHEREFORE, the City of New York requests judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
October 29, 2007

MICHAEL A. CARDOZO
Corporation Counsel of the City of New York
Attorney for Defendants City of New York,
100 Church Street, Rm. 3-221
New York, New York 10007
(212) 442-8600

By:


Sabrina Tann (ST 2552)
Assistant Corporation Counsel
Special Federal Litigation

TO: BY FIRST CLASS MAIL
Richard Richardson
Plaintiff *Pro Se*
1416 Brooklyn Avenue, #1A
Brooklyn, New York, 11210

Index No. 07 CV 7198 (LAK) (MHD)

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK
Richard Richardson, <div style="text-align: right;">Plaintiff,</div> <div style="text-align: center;">-against-</div> New York City; New York City LIRR Police Command District #4; All John Doe Officers; John Doe Tour Command; Officer Fuenes, Tax ID 086729; and Officer Smith <div style="text-align: right;">Defendant.</div>
ANSWER
<p style="text-align: center;">MICHAEL A. CARDOZO <i>Corporation Counsel of the City of New York Attorney for Defendants City of New York and Raymond Kelly 100 Church Street New York, N.Y. 10007</i></p> <p style="text-align: center;"><i>Of Counsel: Sabrina Tann Tel: (212) 442-8600 NYCLIS No. 2007-027498</i></p>
<p><i>Due and timely service is hereby admitted.</i></p> <p><i>New York, N.Y., 200.....</i></p> <p><i>..... Esq.</i></p> <p><i>Attorney for</i></p>

JUDGE KAPLAN /

07 CIV

7198

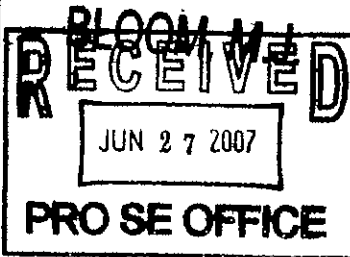
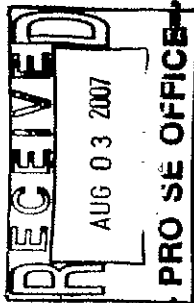
Original

ROSS, J.

07

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1st PAGE



June 27th 07
 Richard Richardson
 1416 Brooklyn Avenue
 Brooklyn New York
 apt #1A 11210
 Phone # (718) 282-5565

Complaint

I Richard Richardson HEREBY
 Ask The United States District
 Court Eastern District of
 New York to hear my Complaint
 and accept my Complaint
 against NYC, LIRR Police
 Station Penn Station Command
 District #4 against its midnite
 and odd tour all John DOE's and
 its tour command John DOE's
 who all involved with my Complaint
 was all "white" male John
 DOE's OFFICER. except two

I name OFFICER Smith Shield Unit
 and OFFICER Fuenes TAX ID 086729
 Squad 07B agency nyc MTA003083
 who issues the Summons # 42173 56225
 at approximately 0630 AM for Disorderly
 Conduct (Boiskrow). Court Date 8/28/07
 ON June 26th 07 at approximately 0530 AM
 I arrived at the Penn Station and
 use the restroom and watch the
 crowd of people who was going on
 Vacation by Amtrak train for 10 min

FILED
 2007 AUG 13
 11:54 AM
 U.S. DISTRICT COURT
 E.D. NY

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After the 10mins watch I Richard then walk over to the Hudson news Stand # 34B brought an orange Soda ask clerk (Mumtaz) who was an India woman age approximately late 60's and she said \$1.99 I gave her two singer bills and said I dont need an receipt and to keep the penny change. left hudson news stand walk 3 Doors Down to the right to an place call Delicatessen for an bagle. at the Delicatessen I came in with Soda in my hand which was not in an bag and my red bookcase I notice all the workers behind the counter was all latino males after a 5mins wait one clerk ask me could he help me I said yes I would like an plain bagle he the clerk turn around reach for an bagle from the basket and said something to me. I didnt hear what he said so I said excuse me to him and he said in a nasty way Just wait. so I said I'll go to another bagle shop. as I was about to walk out clerk told me to paid for the Soda. I said to him I came in with it and start to walk out when he told an police officer who officer

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Amtrak was right next to the Delicatessen Shop. The officer name unknown had an blue shirt with J.R. on it said hey to me as I was walking back to the news stand to ask the clerk if she could come and move I paid for the Soda. As I stop as officer said I told him I paid for the Soda he could stand out if we walk just two doors door but he refuse & held me in the same spot for 10 mins or if I paid for the Soda or not with the latino clerk and then all of a sudden the clerk told the officer I came in with it. I left and went on the other side of Penn station to Hot crusty dell for an baskle. When my turn came for to order I ask for an plain baskle. at this point I help myself to an base form basket. and gave the clerk who was an afro male. took my dollar and then said paid for the Soda. I told him I came in with it walks out made an right turn to go back to other side to eat my baskle and drink my Soda. As I was in front of the MTA LIRR Police District 4 Station the hot crusty clerk grab

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my left arm and try to take the
 Soda from my hand. I then broke
 FREE the grab he the clerk push
 UP on me with his body. I felt
 treated and got in to a combat
 stance to sweep him off his feet
 at that time the John Doe's
 OFFICERS who I name ask
 both of us what the problem
 the clerk told the commander
 I stole the Soda I response and
 said I did not and told the
 command officer where I bought
 the Soda from and we should
 walk over there. instead he told
 clerk to leave ask me for ID
 and ask where I from and we
 I said I from brooklyn and live
 in penn station and trans until
 I find some where to live he
 step away and to more officer
 came over to me. one was a
 newtack who I would never
 forget told me turn around put
 the cuff one and then all
 the officer escorted me in side
 District #4 command we went
 to the holding area over inside
 the officer who cuff me
 tighter the cuff on my right
 waist I said what your doing
 the cuff to tight. at this point

8 and with force he slam me into the mess w~~ing~~ holding pen. Starting searching me and ask do I have any weapons I said I don't carry weapons and the he unlock the cuff told me to sit down on the bench. Put cuff back on and force tight it against now I Richard cuff to the bench and every second an ^{Page 13} officer came into holding area to take a look at me. after an half hour detain the unknow ^{Warden} town command a big tall big white guy ask me did I every been to the hospital. I said no he said I'm going to let you go with an summons. after giving summons I was let go. and an officer Smith said to me he glad I didn't hit and drop Sweep the clerk because I then would be arrested. So I ask court to hear my complaint against NYC and if NYC MTA LIRR Police for Section 42 USC 1983 violation of civil laws my rights, discrimination religion, harass, detain without cause and to investigate facts. So I hereby ask court to hear and award me \$1,000,000.00 dollar in numbers and words one million dollars for - detain, harass, profile

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Respectfully Submitted
on JUNE 27th 07

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Richard Richardson
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